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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifteenth session

SUMMARY RECORD OF THE 44th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 28 November 1996, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of the United Kingdom of Great Britain and Northern Ireland (Hong Kong) (continued) (E/1994/104/Add.10 and E/C.12/Q/UKHK.1) (continued)

1. At the invitation of the Chairperson, the delegation of the United Kingdom took places at the Committee table.

Implementation of article 11 of the Covenant (continued)

2. Mr.ADEKUOYE asked whether the measures to curb property speculation described in paragraphs 231 to 235 of the report still applied and whether their effectiveness had not diminished. Seemingly, housing prices were still rising by some 20 per cent a year and a number of large companies had a virtual monopoly on the Hong Kong housing market. If that was indeed the situation, what did the Government intend to do to reintroduce competition into the market?

3. Mr. FUNG (United Kingdom), replying to a question put at the previous meeting, said that there had been no known cases of corruption in the allocation of public housing in the past decade. There had, however, been a case of corruption with respect to applications to change accommodation; the civil servant involved had been prosecuted. In 1974, the authorities had set up an independent commission to combat corruption. It was very effective, as the number of anti-corruption officials from neighbouring countries who came to train with it showed.

4. The question of the separation of State budget revenue and social security revenue did not arise, since there was no social security revenue. In 1996, social security had accounted for 10.1 per cent of public spending, an increase of 50 per cent over 1992. Older persons receiving benefits under the Comprehensive Social Security Assistance (CSSA) Scheme received a food allowance of 1,035 dollars a month to be used as they wished.

5. Regarding the housing market, he stressed that in June 1994 the Hong Kong authorities had instituted measures to combat speculation and increase the supply of land and accommodation. Following the introduction of those measures, housing prices had fallen, reaching their lowest level in October 1995. The market had since steadied: prices were rising somewhat and there was now appreciably more housing available for sale or rent. A special team had been set up to oversee, facilitate and accelerate the implementation of large housing construction projects; by late October 1996 it was monitoring 56 projects that would together increase the housing stock by over 130,000 dwellings. Because of the substantial amounts of money involved in the housing sector, the Government's policy was to keep a close watch on the housing market, which it viewed as an indicator of well-being. Lastly, it

should be noted that the housing market was entirely free, that it was accessible to all Hong Kong citizens and all foreigners, and that there was no monopoly in the housing sector.

6. Mrs. BONOAN-DANDAN observed that at its eleventh session, following its consideration of the second periodic report concerning Hong Kong, the Committee had urged the Government to take immediate, top-priority action to eliminate "cage dwellings" and had also urged it to give serious thought to incorporate the right to housing into domestic law. The delegation had said that the number of "cage dwellings" had fallen from 3,200 to 2,600, but it would be interesting to know whether the Hong Kong authorities intended to act on the Committee's requests.

7. Like Mr. Thapalia, she wondered whether the poverty line had been officially defined. If not, how could it be said what "poor" meant, how large the middle class was or how wide the gap was between rich and poor?

8. Mr. SIMMA asked whether Hong Kong had any law against the formation of monopolies. The delegation had said that the authorities intended to continue building singleton hostels: he had seen during his own visit to Hong Kong that the residents of such hostels did not even have rooms of their own and thus had no privacy at all. That seemed to be one of the reasons why some people preferred to stay in "cage dwellings" rather than move to a hostel. He believed the authorities should offer housing having at least one private room for each resident.

9. Mr. FUNG (United Kingdom) said that there was no anti-monopoly legislation in Hong Kong. The Government's policy was, however, aimed at stimulating competition and access to all sectors of the economy.

10. The Hong Kong Government had not embodied the right to housing in domestic law, but it had taken account of the Committee's recommendation and had taken administrative measures to ensure that the recommendation was respected. The authorities were committed to a policy of providing decent, affordable housing for the entire population and the number of persons inadequately housed had been declining constantly over the past 10 years. The Government felt that legislation was unnecessary and preferred a pragmatic approach, in the belief that the housing construction programme would solve the problem.

11. As stated in paragraph 215 of the report, the Government had promulgated a Bedspace Apartments Ordinance with the aim of improving living and safety conditions in "cage dwellings". The authorities believed that the Ordinance would reduce the number of "bedspace lodgers" from 2,700 to 1,600. It did not at present intend to eliminate the remaining 1,600 bedspaces in the near future, but would do so gradually. It was a fact that some residents of "cage dwellings" were reluctant to leave them because they preferred to live in a central location rather than in a more distant singleton hostel. That being so, the authorities had set up a programme to increase the building of singleton hostels in central areas.

12. He took note of Mr. Simma's comments concerning the privacy of residents of singleton hostels. It was probably for reasons of privacy that "bedspace lodgers" had built cages around their beds in what had then come to be known as "cage dwellings". It should be noted in that regard that there was relatively little land available in Hong Kong and that, if everybody had to be provided with private accommodation, the building programme would take much longer.

13. The Hong Kong Government had not defined either of the concepts "poverty line" or "poor".

14. Mrs. JIMENEZ BUTRAGUEÑO asked whether there were homes for older persons or persons with disabilities who needed permanent care.

15. Mr. SIMMA drew attention with regard to the implementation of article 10 to the Government's reply to question 23 in the list of issues (E/C.12/Q/UKHK.1). He had the impression that the changes the Government intended to make to the Employment Ordinance to improve maternity protection had to do with unpaid maternity leave. The information he had suggested that there would be no change regarding paid maternity leave and that women would still have had to work for 40 weeks to qualify for such leave. He requested clarification on that point.

16. He would also like information on the status of foreigners employed in Hong Kong under fixed-term contracts. That category included both executives of large firms, who undoubtedly had no difficulty in setting up home in Hong Kong with their families, and domestic servants and manual workers. Labourers on the site of the new Hong Kong airport had recently gone on strike in protest against the unjustified withholding by "middlemen" of part of their wages. The Government should ensure that wage rights were respected.

17. Apparently, Hong Kong had no influence over the way in which China issued exit visas to people wishing to emigrate to Hong Kong for family reunion. There were rumours of corruption or preferential treatment for the relatives of senior officials. He wondered whether, under international law, Hong Kong could delegate its competence on immigration matters to China.

18. Mrs. JIMENEZ BUTRAGUEÑO asked whether there were any regulations under which a Chinese child illegally present in Hong Kong could be forced to return to China. Did Chinese children living in Hong Kong have access to education and health care?

19. Mrs. BONOAN-DANDAN remarked that during her mission to Hong Kong she had met numerous mothers who were present illegally in Hong Kong when they could have gone there on grounds of family reunion. Such people often had to pay thousands of dollars at the Chinese border to get a good place in the queue of applicants to emigrate to Hong Kong. What was the logic behind putting adults and sometimes very young children in two separate lines to rejoin relatives legally resident in Hong Kong? Often, mothers preferred to live there illegally rather than be separated from their children. Hong Kong should take action with the Chinese authorities to remedy such families' difficult situation.

20. Immigrant children could, in theory, attend school and they were given a list of schools where they could enrol. In Hong Kong, however, children were streamed for secondary education before they reached the age of 15. If they were older than that, the children of Chinese immigrants could only enrol in courses of limited duration. Indeed, many schools refused them on the grounds that they did not know either Cantonese or English well enough.

21. She had been told by non-governmental organizations that parents who were Hong Kong citizens sometimes had to leave their children alone in order to go out to work. According to those organizations, a third of the accidents involving children, some of them fatal, occurred in the absence of the children's parents.

22. Drug abuse by children was on the increase. Schools did not have enough staff to inform children about the risks of drugs or to give them sex education. Many non-governmental organizations had asked the authorities to adopt an effective, integrated youth policy and to ensure strict adherence to the law that set the minimum age of criminal responsiblity at 12, for there had been instances of the prosecution of children aged between 7 and 12.

23. Mr. GRISSA wondered whether Hong Kong could be held responsible for China's policy on emigration to Hong Kong. Concerning paragraph 116 of the report, he thought it inhumane that a child could be in prison from its birth until its mother had completed her sentence.

24. Mr. WIMER ZAMBRANO asked for further information on the Government's measures to protect male and female homosexuals.

25. Mr. FUNG (United Kingdom) said that it was Hong Kong's policy to integrate children from the Chinese mainland fully into the local community by meeting their needs regarding education, health care and housing. Remedial teaching was available for the children with inadequate knowledge of English or Cantonese. Total spending to date on the programmes implemented in that sphere since October 1995 amounted to 9.1 million dollars. Education Department officials were active at the borders and within the territory in providing information to new arrivals to facilitate the choice of primary and secondary education opportunities for their children. Recently, a central guidance department had been set up to assist the officials responsible for placing the children of immigrants in schools. Now, children aged over 15 who arrived in Hong Kong during the school year and could not be placed in a secondary school could attend evening classes that had formerly been reserved for adults aged 18 or more. To cope with the growing number of children arriving from China, the authorities intended to build five new primary schools by September 1997 and a further five schools and 14 secondary establishments would be opened by 2002. The voluntary organizations that dealt with immigrant children had recently begun to receive new material for teaching them English.

26. The promotion of family reunion was one of the Government's particular concerns. In 1991, Hong Kong and China had reached an agreement whereby, on humanitarian grounds, the Chinese authorities issued emigration visas to people wishing to settle in Hong Kong. In view of the limited availability of

transport, education, health and social protection services, the Hong Kong Government had to control the number of immigrants from China. The quota had, nonetheless, been increased in May 1995 to permit 150 mainland Chinese a day, 45 a day more than before, to settle in Hong Kong. That number was exclusive of Chinese who visited Hong Kong as tourists and who were under an obligation to return to their country. More than 90 per cent of immigrants came to Hong Kong to rejoin their families. The quotas were set by the Hong Kong authorities in conjunction with their Chinese counterparts. It remained the case that many Chinese citizens had to wait several years before being able to settle in Hong Kong.

27. Hong Kong's immigration policy sought to reduce the number of illegal immigrants; they were normally repatriated. It did, however, happen that the authorities decided, for humanitarian reasons, to allow illegal immigrant Chinese mothers to remain in Hong Kong. Illegal immigration had previously been frequent, and mainland Chinese had risked their lives to get to Hong Kong, sometimes going so far as to hide in the bilges of fishing boats. Under article 53/A of the Immigration Ordinance, illegal immigrants could appeal against decisions to repatriate them.

28. The Hong Kong Government could not tell China how it should operate its emigration policy. It had, however, been successful in persuading China to accept that, of the 45 extra exit visas granted a day as from May 1995, 30 should be for children and 15 for persons separated from their spouses in Hong Kong for 10 years or more.

29. The Employment Ordinance provided for heavy penalties for persons who illegally withheld part or all of the wages of a foreigner present in Hong Kong under a fixed-term labour contract. The authorities spared no effort to enforce that law and prosecute offenders.

30. The measures taken or planned regarding housing for the elderly were based on two principles: enabling the elderly to live out their lives in their families if possible, and offering as wide a range of solutions as possible for people who were alone. There were eight such solutions, ranging from sheltered accommodation where the elderly could lead relatively independent lives while enjoying the benefits of living in a group, to establishments providing long-term care outside a hospital environment to persons with severe physical or mental handicaps, through emergency reception centres, homes for the blind and, from 1997, centres for people whose condition was stable but who needed outpatient care.

31. More generally, efforts were made to fit out accommodation for the elderly so as to make life easier for them. From 1997, those efforts would become more systematic, with the renovation of old dwellings and the construction of small flats for sale or rent under the Housing for Senior Citizens scheme. In keeping with the commitment given by the Government in 1995, "bedspace lodgers" aged over 60 and elderly persons entitled because of their limited means to relief would all be rehoused. All the action in favour of the elderly was aimed at enabling them to live independent, dignified lives.

32. As a member of the Committee had said, the drug abuse by young people was a disturbing phenomenon. The Hong Kong authorities were tackling it through a multifaceted approach involving repression, preventive education, treatment and rehabilitation, research and international cooperation. A 350 million dollar drug abuse control fund had been set up and the Drug Trafficking Recovery of Proceeds Ordinance had been amended to facilitate action against money-laundering. The maximum penalties for breaches of drugs law had been increased and, in addition to drug education in schools, assistance was provided for parents. The chemical precursors used in the illicit manufacture of drugs were now subject to stricter control and a team of social workers had been specially trained to deal with cases of drug abuse. The number of centres for the treatment of young drug addicts would be increased and those establishments would be entrusted to non-governmental organizations, which had a very important role to play in drug abuse control.

33. The measure permitting the presence in prisons of children under the age of 3 was designed to prevent the separation of infant and mother when the latter was in detention and had no relatives in Hong Kong, as was sometimes the case with illegal immigrants. The children's conditions of life met the accepted international standards and were consistent with the inherent dignity of all members of the human family recognized in the preamble to the International Covenant on Civil and Political Rights.

34. It was true that the age of criminal responsiblity in Hong Kong was the same as in the United Kingdom, namely 7, but the relevant provision was under review and would be amended to take account of the recent dialogue on the matter with the Committee on the Rights of the Child.

35. Regarding the protection of sexual minorities, the efforts made among the public at large to dispel the false ideas that existed about homosexuality were beginning to bear fruit.

36. Mr. SIMMA, alluding to the Bill of Rights Ordinance, insisted that answers should be given to the questions raised concerning unpaid maternity leave, the allegation that foreign domestic employees were not treated equally with other contract workers and equal pay for equal work. He also asked for an explanation of the term "contract workers", since that category could include both senior executives and airport sweepers, a fact that made for confusion and hampered comparison.

37. He had in his possession a text setting out very precise provisions for the enforcement of the Employment Ordinance. Did the representative of the United Kingdom know what would happen if, to defend her rights, an employee invoked before the courts the Convention on the Elimination of All Forms of Discrimination against Women?

38. Mr. ALVAREZ VITA asked how women in the New Territories, who had not had the right to inherit until 1994, had been compensated since.

39. Mr. FUNG (United Kingdom) said that the Legislative Council had introduced a bill to amend the Employment Ordinance to improve maternity protection. If adopted, such protection would become more flexible; for example, it would be possible to split maternity leave between the prenatal

and postnatal periods and the range of beneficiaries would be extended to include, in particular, mothers with more than two living children and employees who had worked at least 18 hours a week for four weeks.

40. Foreign domestic employees were treated the same as other contract workers.

41. The Equal Opportunities Commission was currently studying the question of equal pay for equal work and account would be taken of its findings.

42. He did not himself have the text to which Mr. Simma had referred and would be very glad to have a copy of it.

Implementation of article 12

43. Mr. SIMMA said he had the impression that only conventional Western-style health care was reimbursable and that traditional Chinese medicine, which was very much in demand, fell outside the health insurance system.

44. In addition, it had been reported by a non-governmental organization that three Vietnamese had been given no treatment because they had not wanted to be repatriated. One of them had died and the other two had probably been sent back to Viet Nam. He would welcome further information on those matters.

45. Mr. WIMER ZAMBRANO, referring to reports that children had become obese because of hypernutrition, asked whether the problem had not really been one of dietary imbalance. He would also like to know Hong Kong's attitude to the problem of mad cow disease if, for example, it imported meat from the United Kingdom.

46. Mrs. BONOAN-DANDAN expressed concern at the way mentally handicapped persons were treated. She had heard that a case against a rapist had had to be abandoned because the mentally handicapped victim had been unable to withstand the double strain of reliving a traumatic experience in public and of having to express herself in a foreign language. Many mentally handicapped persons were among the most disadvantaged members of the community and many of them lived in "bedspace dwellings". What allowance was made for such people in Hong Kong's housing policy and where were they supposed to go when they left institutional care?

47. Mr. AHMED expressed shock at the prevalence of suicide among young people and, in view of Hong Kong's prosperity, surprise at the lack of attention given to access by young handicapped persons to buildings, public transport and information.

48. Mr. FUNG (United Kingdom) explained that medical care was provided both by public institutions and through private channels and that there was no risk of anybody having to go without care for financial reasons. Beneficiaries of the CSSA Scheme were treated free of charge, while other people paid only a negligible charge covering examinations, medicines and laboratory analyses.

49. The importance of traditional Chinese medicine was, in fact, fully recognized in Hong Kong, where a committee had been charged with carrying out a study with a view to establishing a register of practitioners, including generalists, osteopaths and acupuncturists. The committee was also supposed to advise on ways of developing and regulating the profession and of setting up a doctors' professional body. Responding to Mr. Simma, he confirmed that people receiving benefits under the CSSA Scheme were not entitled to the reimbursement of expenses for medical treatment according to traditional Chinese methods.

50. The inquiry into the case of the three Vietnamese mentioned by Mr. Simma was not yet complete. The Committee would be informed in writing of its findings.

51. It was true that many children in Hong Kong were obese. According to studies on the matter, the cause was a switch from the traditional Chinese diet, which included no dairy products, to the richer diet of Western countries.

52. Thanks to special arrangements on their behalf, vulnerable witnesses, such as mentally handicapped persons and rape victims, should henceforth be able to testify without fear, in private, for example, over a video link or through the medium of a social worker or a doctor.

53. Regarding accommodation for mentally handicapped persons, the Government had established a number of special-purpose reception centres and home-care services. There was also a special training programme for autistic children.

Implementation of article 13

54. Mr. SIMMA asked whether there were many schools that taught one group of children in the morning and another in the afternoon and whether measures had been taken to facilitate handicapped children's access to school premises.

55. Mrs. BONOAN-DANDAN asked whether schools provided instruction in human rights.

56. Mr. AHMED expressed concern that, as the increases in juvenile delinquency, drug abuse, pornography and juvenile suicide seemed to indicate, Hong Kong's remarkable economic success might have been achieved at the expense of traditional values and family solidarity.

57. Mr. FUNG (United Kingdom) said that, in the 1970s, when education up to the end of the first secondary cycle had become free and compulsory, the number of schoolchildren had risen sharply and the Government had had to compensate for the shortage of school premises by dividing pupils into two groups, the first of them studying in the morning and the second in the afternoon. That was a temporary situation which the Government was gradually resolving.

58. The Government had taken a variety of material, pedagogical and financial measures to facilitate handicapped children's access to education. For example, the Disability Discrimination Ordinance provided that all

educational establishments built from 1998 onwards must be designed to be accessible to children with disabilities. Existing schools would be appropriately altered whenever possible.

59. The population of Hong Kong remained firmly attached to family values, in which respect it might be noted that sex education was available in schools from the primary level onwards.

60. Both primary and secondary school pupils received human rights education tailored to their needs and level of knowledge.

61. Mrs. JIMENEZ BUTRAGUEÑO asked whether training in human rights was available for police officers and members of the judiciary.

62. Mr. FUNG (United Kingdom) said that, as a general rule, civil servants did receive such training. Where judges and magistrates were concerned, the Government had an obligation to respect the principle of the independence of the judiciary. It could do no more, therefore, than encourage them to improve their knowledge in that area, which they in fact did by attending human rights workshops and conferences.

63. Mr. SIMMA expressed the hope that all members of the Hong Kong judiciary would be given copies of the Committee's final observations on the United Kingdom report concerning Hong Kong.

64. Mr. FUNG (United Kingdom) assured Mr. Simma that his suggestion would be given careful attention.

65. Mr. SIMMA requested further information concerning a 1994 law making it possible for women in the New Territories to inherit land. Rumour had it that pressure was already being exerted on the Government of China to persuade it to repeal the law, which was contrary to Chinese customary law, after the restoration.

66. Mr. FUNG (United Kingdom) said that the law in question had been adopted to extend to the New Territories the principle of equality between men and women that was embodied in the Bill of Rights and that for its part the Hong Kong Government had no intention of repealing it.

67. Mr. THAPALIA said that he hoped the People's Republic of China would respect the undertakings it had given by signing the 1984 Joint Declaration, which stated, inter alia, that the Special Administrative Region of Hong Kong would enjoy a high degree of autonomy and executive, legislative and independent judicial power, including the power of final adjudication, that the laws currently in force in Hong Kong would remain basically unchanged, that rights and freedoms would be ensured by law and that the current social and economic systems in Hong Kong would remain unchanged. He also hoped that China would continue to submit to the Committee reports on the situation of human rights in Hong Kong.

68. Mrs. JIMENEZ BUTRAGUEÑO asked whether efforts were being made to strengthen understanding and dialogue between Hong Kong and the People's Republic of China.

69. Mr. STEEL (United Kingdom) said that the Hong Kong Government was in constant contact with the Government of the People's Republic of China with view to establishing a climate conducive to respect for human rights in the Special Administrative Region.

70. Mr. FUNG (United Kingdom) said that the links between the territory o Hong Kong and the adjacent regions of the People's Republic of China, wheth in the commercial, economic or cultural spheres, were already very close an were steadily growing stronger.

71. The CHAIRPERSON thanked the United Kingdom delegation for its fruitfu dialogue with the Committee. The Committee's thanks were also due to the Hong Kong Government for having accepted the mission by two members of the Committee to the territory.

72. The United Kingdom delegation withdrew.

The meeting rose at 6 p.m.